IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE NO. 18 OF 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge?

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COMMISSIONER OF INCOME-TAX - Applicant(s)
Versus
DR. SURESH P. AMIN FAMILY TRUST - Opponent(s)

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Appearance :
MRS. MONA BHATT with MR. MANISH R. BHATT for Applicant(s).
NONE for Opponent(s).

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG
and
HONOURABLE MR.JUSTICE M.R. SHAH

Date : 22/08/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE R.S.GARG)

Present is a Reference by the Income-Tax Appellate Tribunal, Ahmedabad Bench “C”, at the instance

of the Revenue on the following question for the opinion of this Court:

> *"Whether on the facts and in the circumstances of the case, the Tribunal was right in law in a profession of pathological laboratory could be said to be carrying on a business as an industrial undertaking which produced an article or thing and was thus entitled to investment allowance u/s. 32A of the Act on the new machinery viz. Pacer Machine installed in his clinic?"*

2. An identical question between the same parties had come up for our consideration in I.T.R. No.237 of 1995. We have answered the said Reference on 1st August, 2006 in favour of the Assessee. As the facts are identical, we are unable to take any different view than what was taken earlier. The question is answered against the interest of the Revenue. The Reference stands disposed of accordingly. No costs.

[R.S.Garg, J.]

[M. R. Shah, J.]

*kamlesh**